

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

10 ANGIOSCORE, INC.,

11 Plaintiff,

12 v.

13 TRIREME MEDICAL, LLC (f/k/a TRIREME
14 MEDICAL, INC.), EITAN KONSTANTINO,
15 QUATTRO VASCULAR PTE LTD., and QT
VASCULAR LTD. (f/k/a QT VASCULAR
PTE. LTD.),

16 Defendants.

Case No. 4:12-CV-3393-YGR

{PROPOSED} JUDGMENT

AS MODIFIED BY THE COURT

Trial Date(s): April 13, 2015
September 14, 2015

Hon. Yvonne Gonzalez Rogers

1 Trial without a jury on the Third Cause of Action for Breach of Fiduciary Duty Under
 2 Delaware Law, the Fourth Cause of Action for Aiding and Abetting a Breach of Fiduciary Duty,
 3 and the Fifth Cause of Action for Unfair Competition Under California Business and Professions
 4 Code § 17200 alleged in the Fourth Amended Complaint (Dkt. No. 244) commenced in this matter
 5 on April 13, 2015 and concluded on April 21, 2015. The Court entered its Findings of Fact and
 6 Conclusions of Law on July 1, 2015 (Dkt. No. 665), finding in Plaintiff AngioScore, Inc.'s favor
 7 on the Third, Fourth, and Fifth Causes of Action of the Fourth Amended Complaint. On March 3,
 8 2015, the Court granted Plaintiff AngioScore, Inc.'s unopposed oral motion to voluntarily dismiss
 9 the Second Cause of Action of the Fourth Amended Complaint.

10 A jury trial on the First Cause of Action alleging Patent Infringement in the Fourth
 11 Amended Complaint (Dkt. No. 244) commenced in this matter on September 9, 2015, with jury
 12 selection, and on September 14, 2015, with opening statements and evidence. The jury entered its
 13 verdict in Defendants' favor on the First Cause of Action of the Fourth Amended Complaint on
 14 September 29, 2015, and the verdict form was duly recorded (Dkt. No. 790).

15 Based on the jury's verdict (Dkt. No. 790), JUDGMENT is hereby ENTERED in favor of
 16 Defendants Eitan Konstantino, TriReme Medical, LLC, Quattro Vascular Pte Ltd., and QT
 17 Vascular Ltd. on the First Cause of Action in the Fourth Amended Complaint. Based on the
 18 Court's Findings of Fact and Conclusions of Law (Dkt. No. 665), JUDGMENT is hereby
 19 ENTERED in favor of Plaintiff AngioScore, Inc. on the Third, Fourth, and Fifth Causes of Action
 20 in the Fourth Amended Complaint.

21 It is further ORDERED that:

22 (1) AngioScore's First Cause of Action is DISMISSED WITH PREJUDICE with respect
 23 to claims 4, 5, 6 and 7 of United States Patent No. 7,691,119 (the "'119 patent").

24 (2) Based on the jury's verdict, Claims 1, 2, 3, 8 and 9 of the '119 patent are not infringed
 25 by the accused Chocolate PTA Balloon Catheter products and are invalid. Accordingly, Plaintiff
 26 AngioScore, Inc. is to recover nothing with respect to the First Cause of Action in the Fourth
 27 Amended Complaint.

1 (3) Plaintiff AngioScore, Inc. recovers from Defendants Eitan Konstantino, TriReme
 2 Medical, LLC, Quattro Vascular Pte Ltd., and QT Vascular Ltd. the amount of \$2.97 million in
 3 past lost profits and \$17.064 million in future lost profits, for a total of \$20.034 million, plus pre-
 4 judgment interest in the amount of \$333,277 calculated by applying the legal rate of interest set
 5 forth in 6 Del. C. § 2301(a) compounded monthly to the \$2.97 million in past lost profits, plus
 6 post-judgment interest at the rate of 0.31% per annum as set forth at 28 U.S.C. § 1961.

7 (4) Plaintiff AngioScore, Inc. further recovers from Defendant Eitan Konstantino the
 8 \$250,000 he received pursuant to his Intellectual Property Assignment with Quattro Vascular Pte.
 9 Ltd. dated June 1, 2010, the 2.85% royalty on past and future Chocolate sales as set forth in his
 10 Intellectual Property Assignment with Quattro Vascular Pte. Ltd. dated June 1, 2010, his shares in
 11 QT Vascular stock, his QT Vascular stock options, any and all monies he has collected from sales
 12 of QT Vascular stock, any and all monies he has received relative to his royalty share, and any and
 13 all monies he has made in connection with his monthly consulting retainer relative to Chocolate,
 14 plus pre-judgment interest in the amount of \$121,992 calculated by applying the legal rate of
 15 interest set forth in 6 Del. C. § 2301(a) compounded monthly to the amounts Defendant Eitan
 16 Konstantino received pursuant to his Intellectual Property Assignment with Quattro Vascular Pte.
 17 Ltd. through June 30, 2014, plus post-judgment interest at the rate of 0.31% per annum.

18 (5) Plaintiff AngioScore, Inc. has prevailed in establishing that Defendant Eitan
 19 Konstantino breached his fiduciary duties to Plaintiff AngioScore, Inc., that Defendants TriReme
 20 Medical, LLC and Quattro Vascular Pte Ltd. aided and abetted that breach, and that Defendant QT
 21 Vascular Ltd. is liable for the acts of Defendants TriReme Medical, LLC and Quattro Vascular Pte
 22 Ltd. As the prevailing party on the Third, Fourth, and Fifth causes of action, Plaintiff AngioScore,
 23 Inc. is awarded its costs in an amount to be determined in accordance with the procedures set forth
 24 in Northern District of California Local Rule 54 to the extent that it can show the costs are related
 25 to those causes of action. Defendants QT Vascular Ltd., Eitan Konstantino, TriReme Medical,
 26 LLC, and Quattro Vascular Pte Ltd., have prevailed with respect to the First Cause of Action for
 27 Patent Infringement. As such, the Defendants are awarded costs in an amount to be determined in
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1 accordance with the procedures set forth in Northern District of California Local Rule 54 to the
2 extent that they can show the costs are related to that cause of action.

3 **IT IS SO ORDERED.**

4 Dated: October 14, 2015


Hon. Yvonne Gonzalez Rogers

United States District Judge

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